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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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In the Matter of	)	**CC Docket 98-77**
	)	
Access Charge Reform for	)	
Incumbent Local Exchange	)	
Carriers Subject to Rate-of-Return	)	
Regulation	)	

COMMENTS
OF
TCA, INC. - TELCOM CONSULTING ASSOCIATES

August 13, 1998

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Introduction

TCA, Inc. - Telcom Consulting Associates (TCA) hereby submits these comments in response to the FCC's notice of proposed rulemaking (NPRM) on Access Charge Reform for local exchange carriers (LECs) subject to rate-of return (RoR) regulation. TCA is a consulting firm which performs financial and regulatory services for over fifty small, rural LECs throughout the United States. In addition to deriving a considerable portion of their revenues from access charges, all of our clients are subject to RoR regulation and therefore will be directly impacted by the FCC's actions in this proceeding. These comments address the concerns of our clients.

Access Charge Restructuring Should be a Response to Competitive Pressures at the Option of the RoR LEC, not an FCC "One-Size-Fits-All" Mandate.

The FCC claims that access reform is necessary for RoR LECs because their existing high per-minute rates place them at a significant disadvantage in attempting to compete with new access service providers.[1] While we do not disagree with this assessment of the impact of high usage-sensitive access charges, unfortunately, the FCC's prescribed reform fails to consider the varying levels of competitive pressures faced by individual companies. This is surprising considering the FCC correctly recognizes that the RoR LECs are not a homogenous group.[2] The assumption that all these companies face the same competitive pressure is not accurate. Competitive pressures vary by company, depending on any number of factors including, but not limited to, geographic location, customer demographics and state regulatory environment. For this reason, the FCC should reconsider the mandatory implementation of access charge restructuring for RoR LECs.

Instead of the FCC's "one-size-fits-all" plan, TCA encourages the FCC to make access

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1 *Access Reform for Incumbent Local Exchange Carriers Subject to Rate-of-Return Regulation*, Notice of Proposed Rulemaking, CC Docket No. 98-77, FCC 98-101 (released June 4, 1998) ("*NPRM*")

2 *Id.* para. 14

reform optional for RoR LECs. This would allow the impacted LEC, the entity best equipped to assess its' competitive pressures, to make the decision whether or not access restructuring is necessary. LECs not facing significant competition would be able to defer access charge restructuring and retain the present format. Pricing flexibility would provide these LECs sufficient capability to address threats from potential new entrants. Smaller RoR LECs in remote areas could delay and/or avoid the increased cost and complexity associated with the FCC's proposed access restructuring. Hopefully, this delay would extend until the FCC completes scheduled proceedings on separations and universal service reform, both of which will impact the magnitude of the RoR LEC's interstate revenue requirement, and ultimately, their customer's rate increases. On the other hand, RoR LECs facing immediate and more extensive competitive pressures could elect to adopt the access reform plan ultimately adopted by the FCC.

Allowing RoR LECs Price Flexibility Would Significantly Reduce the Competitive Pressures From Less Efficient New Entrants.

While flat-rate, per-line charges may be more economically efficient for the recovery of the carrier common line (CCL) revenue requirement than usage-sensitive charges, they will not result in the elimination of implicit subsidies. Flat-rate charges are company-wide average rates which result in lower cost customers subsidizing higher cost customers. Most of the smaller RoR LECs have a handful of large business customers who generate a sizable percentage of their access minutes. In most instances, these high-volume business customers are also the least expensive to serve. Not surprisingly, these customers (and usually only these customers) are of interest to potential competitors. In most instances, merely allowing incumbent LECs access charge pricing flexibility for these few high volume, low cost customers would be sufficient to prevent their loss to less efficient new entrants, thereby accomplishing one of the FCC's stated objectives in this proceeding.[3]

Curiously, the FCC appears to acknowledge that ultimately it will be necessary to grant a certain degree of pricing flexibility to RoR LECs. Unfortunately, they have failed to recognize

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[3] *Id.* para. 2

that this would resolve many of the problems identified in this NPRM and have elected to defer this critical issue until a later phase of this proceeding.[4] TCA strongly disagrees with this decision and characterizes as inadequate any "solution" designed to resolve problems with the current access structure which does not incorporate pricing flexibility.

Access Charge Restructuring Should Produce Identical Results for Price Cap and RoR LECs

The FCC proposes to amend the access charge rules for RoR LECs in a manner similar to those adopted for LECs subject to price cap regulation.[5] The major modification implemented for price cap LECs was converting cost recovery of non-traffic sensitive costs, primarily the CCL, from per-minute to per-line rates. This was accomplished by (1) increasing the subscriber line charges (SLCs) for second lines and multi-line businesses and (2) the introduction of a flat, per-line charge assessed on the end user's presubscribed interexchange carrier (PICC).[6] For price cap LECs, SLC increases and the introduction of the PICCs will produce sufficient revenues to enable recovery of their entire CCL revenue requirement, thereby allowing them to eliminate their per-minute CCL charge.[7]

The scenario will differ for most RoR LECs. After implementing the maximum flat-rate increases, they will still be left with a residual CCL revenue requirement. The FCC has proposed this residual be recovered through a per-minute CCL charge or an alternative recovery

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4 *Id.* para. 5

5 *Id.* para. 22

6 *Access Charge Reform* CC Docket No. 96-262, First Report and Order, 12 FCC Rcd 15982 (1997) ("*Access Charge Reform Order*"); Order on Reconsideration, 12 FCC Rcd 10119 (1997); *appeal pending sub nom., Southwestern Bell Tel. Co. v. FCC*, No. 97-2618 (and consolidated cases) (8th Cir. argued Jan. 15, 1998): Second Order on Reconsideration, 12 FCC Rcd 16606 (1997)

7 In fact, the FCC acknowledges that several price cap LECs will not need to increase these flat rate charges to the ceiling. *NPRM* para. 38

mechanism.[8] To summarize, under the FCC's plan RoR LECs will be charging higher SLCs and PICCs than their neighboring price cap LECs, yet still needing to charge a per-minute CCL rate in order to recover a portion of their common line revenue requirement.

Obviously, the FCC's plan does not create a level playing field. Neither does it accomplish the FCC's stated goal of access charge reform, the elimination of the economically inefficient usage sensitive CCL rate.[9] Without modification, the FCC's plan will limit, not enhance, the RoR LEC's ability to compete with less efficient new entrants. Accordingly, the following changes are needed to the FCC's proposed access charge restructuring.

A. The FCC must eliminate the disparities between the flat-rate CCL charges required by price cap and RoR LECs.

SLCs and PICCs charged by RoR LECs should not exceed the nationwide average of those charged by price cap companies. The NPRM indicates that the monthly per-line CCL revenue requirement of an average RoR LEC is in excess of $10.00, versus $6.10 for an average price cap LEC.[10] Requiring RoR LECs to recover this revenue requirement from their customers in the form of flat-rate charges would result in rates more than 80% higher than those charged by price cap LECs. Clearly, this would violate Section 254(b)(3) of the Telecommunications Act of 1996, which requires that consumers in rural areas have access to telecommunications services at rates reasonably comparable to those in urban areas. Additionally, identical FCC-mandated charges would "level the playing field" for RoR LECs serving high cost areas when faced with competition from the neighboring price cap LEC.

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8 *Id.*

9 *Id.* para. 24

10 *Id.* para. 36

B. High cost support mechanisms should be used to eliminate the usage-sensitive originating CCL.

If the FCC believes that eliminating the usage-sensitive CCL improves the efficiency of the rate structures for price cap LECs, it should do the same for RoR LECs. Merely reducing the CCL rate does not constitute equal footing. The FCC acknowledges that higher loop costs incurred by RoR LECs are the result of lower customer densities.[11] This is precisely the situation universal service support mechanisms were created to resolve, that is , the providing affordable service to high cost areas. Accordingly, the "alternative recovery mechanism" by which RoR LECs should recover their residual CCL revenue requirement is a high-cost support mechanism, not an originating per-minute CCL rate.

In fact, such a high-cost support mechanism already exists. Long term support (LTS) was created to support the interstate portion of the local loop for high-cost LECs. These are precisely the costs the CCL access charges are designed to recover. Converting access charges from a usage-sensitive to a flat-rate does not eliminate this need for support. The FCC has previously determined that LTS payments serve the public interest by reducing the amount of loop cost that high cost LECs must recover through CCL charges thereby facilitating interexchange service in high cost areas.[12] By modifying LTS to ensure that high-cost RoR LECs are provided sufficient support to eliminate the usage sensitive CCL rate, the FCC would truly be providing equal results for RoR and price cap LECs.

C. Should the FCC mandate a per-minute CCL charge, it should be assessed on terminating usage, not originating usage.

The FCC required price cap LECs to recover any CCL revenue requirement shortfalls

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11 *Id.* para. 16

12 Federal-State Joint Board on Universal Service, *Report and Order*, 12 FCC Rcd 8776, 8927, para. 757 (1997).

though a per-minute CCL charge assessed primarily on originating minutes.[13] We assert that this decision was incorrect for price cap LECs and to would even be more inappropriate for RoR LECs. The FCC's contention that the existing access charge rate structure with usage-sensitive CCL rates, places RoR LECs at a significant disadvantage in attempting to compete with new access providers[14] is incomplete. The FCC fails to mention that it is the high cost of ***originating*** access that hinders rate-of-return LECs' ability to compete. Originating access is far more competitive than terminating access. Requiring RoR LECs to recover residual CCL revenue requirements through an originating per-minute charge inhibits the incumbent LEC's ability to compete, not enhances it. Again, this proposal directly contradicts the FCC's rationale for implementing access charge restructuring.

Shifting the residual CCL revenue requirement from terminating to originating usage, also shifts the burden of cost recovery to the IXCs who choose to serve these high-cost areas. Conversely, IXCs who refuse to serve high-cost areas with high access charges would receive rate reductions, yet would still glean the benefits of a nation-wide ubiquitous network. Assignment of residual CCL costs to the terminating charge is especially appropriate for RoR LECs because it compensates them for the value they add to the network by serving high-cost areas.

Conclusion

Access charge restructuring should be a response to competitive pressures, not a burden imposed upon RoR LECs and their customers. Accordingly, these smaller, high-cost LECs should have the option whether or not to adopt access charge restructuring, contingent upon the competitive pressures their individual companies face. Pricing flexibility must be addressed in this proceeding, as this would provide most RoR LECs sufficient capability to effectively compete with less efficient new entrants.

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13 *Access Charge Reform Order*, 12 FCC Rcd at 16022-16023 para.100

14 *NPRM* para. 2

For the RoR LECs electing access charge reform, the FCC's proposed plan should be modified. Because the FCC proposes an access rate structure for RoR LECs similar to the one imposed earlier on price cap LECs, it also needs to ensure that the RoR LEC's customers see similar results as the customers of the price cap LECs. Accordingly, the FCC must (1) cap the flat-rate SLCs and PICCs at the nationwide average for price cap LECs, (2) eliminate, not reduce the originating per-minute CCL charge by modifying an existing high-cost support mechanism, LTS, and (3) should a usage-sensitive charge be implemented, assess it upon terminating usage, not originating.

Respectfully submitted,

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